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REMARKS

Claims 1-18 are pending in this application. The Examiner rejected Claims 1-18 under 35 U.S.C. 103(a). Applicant has amended Claims 1, 2, 5, 6, 9, 10, 13, 14, 15 and 18 and cancelled Claim 3, 7, 11, 16 and 17 in the foregoing amendment.

Bernard and Rose Do Not Show or Suggest the Invention of Claims 1-18

The Examiner rejected Claims 1-18 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,918,213 to Bernard ("Bernard") in view of U.S. Patent No. 5,708,709 to Rose ("Rose"). This rejection is traversed for the reasons discussed below.

Claim 1

The Examiner alleged that Bernard teaches a digital distribution method comprising the steps of: providing, by a product vendor, a plurality of products for browsing over the network, selecting, by a product buyer, a desired product from a plurality of browsed items, specifying a shipping charge for a delivery of the product item, and placing an order for the product over the network, and delivering the product from the vendor to the buyer when a required delivery period has elapsed from a time the order is placed, said required delivery period being determined based on said shipping charge.

The Examiner admitted that Bernard does not specifically disclose and teach a method of incorporating, by the vendor, the digital contents into a control program controlling the digital contents and transmitting the control program to the buyer over the network in response to the order, said digital contents representing the entity of the product item selected by the buyer; and disabling, by said control program, the digital contents when a contents availability period has elapsed, said contents availability period being set in said control program and set to a time longer than the required delivery period. The Examiner alleged that Rose teaches a method of incorporating, by the vendor, the digital contents into a control program controlling the digital contents and transmitting the control program to the

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buyer over the network in response to the order, said digital contents representing the entity of the product item selected by the buyer; and disabling, by said control program, the digital contents when a contents availability period has elapsed, said contents availability period being set in said control program and set to a time longer than the required delivery period.

The cited section of Rose describes a "try and buy" system for distributing an application program in which the program is disabled after a predetermined time. The time period described by Rose is determined based on a predetermined date ("time bomb") or based on the number of hours that the program is used. In contrast, the claimed invention requires the transmission of the control program including the digital contents and the delivery of a tangible product. In addition, the contents availability period of Claim 1 is based on the expected delivery time for the tangible product. Rose does not describe the delivery of both an electronic copy and a hard or tangible copy of a product and thus, does not describe using a delivery date for a tangible product to determine the time for erasing or disabling an electronic copy.

The Examiner cited Column 46, lines 36-46 of Bernard, which describes sampling by a user, and Column 1, lines 20-21 of Rose, which describes limiting the rights of users in a try and buy system, and alleged that it would have been obvious to combine Bernard and Rose. The cited section of Bernard describes limiting the user's access to samples while the user is connected to the product purchasing system, whereas the cited section of Rose describes limiting the user's access to a trial version of a program after the trial version has been installed on the user's computer. It is submitted that there is no motivation to combine Bernard and Rose since the references are directed to limiting different types of access.

Even if Bernard and Rose are combined, the combination does not teach or suggest a control program that erases the digital contents or the control program including the digital contents when a contents availability period has elapsed, wherein the contents availability period is based on a delivery time, as required by amended Claim 1. Accordingly, amended Claim 1 would not have been obvious to one of ordinary skill by the cited references at the time Applicant made the claimed invention. Thus, Claim 1 should be allowed.

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Claims 5, 9, 13-15 and 18

Amended independent Claims 5, 9, 13-15 and 18 include recitations similar to that of Claim 1. The remarks made in support of the patentability of Claim 1 are also applicable to distinguish Claims 5, 9, 13-15 and 18 from Bernard and Rose. Accordingly, Claims 5, 9, 13-15 and 18 also should be allowed.

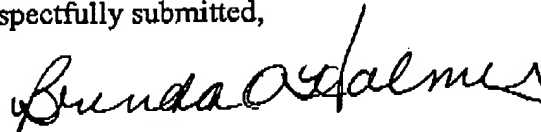
Claims 2-4, 6-8, 10-12, and 16-17

Claims 2-4, 6-8, 10-12, and 16-17 depend from independent Claims 1, 5, 9 or 14. The remarks made in support of the patentability of the independent claims are also applicable to distinguish the dependent claims from Bernard and Rose. Accordingly, Claims 2-4, 6-8, 10-12 and 16-17 also should be allowed.

CONCLUSION

The foregoing is submitted as a complete response to the Office Action identified above. This application should now be in condition for allowance, and the Applicants solicit a notice to that effect. If there are any issues that can be addressed via telephone, the Examiner is asked to contact the undersigned at 404.685.6799.

Respectfully submitted,



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